

DEC 22 2003

NEBRASKA DEPARTMENT  
OF INSURANCE

Dec 22, 2006 ACCT# 8521 \$350.00  
 NO-INVOICE 45800 TRANS 1677490  
 MIDLAND NATIONAL LIFE INSURANCE COMPANY  
 CHECK# 2104449

## JURISDICTION

2. Respondent is an Iowa domiciled insurer licensed to conduct business in Nebraska as a foreign insurer.

## STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Midland National Life Insurance Company, Cause Number C-1598 on September 18, 2006. A copy of the petition was served upon the Respondent's agent, Stephen P. Horvat, Jr., at 525 West Van Buren, Chicago, Illinois 60607 by certified mail, return receipt requested.

2. Respondent allegedly violated 210 NEB. ADMIN. R. & REGS. 19-008.02B as a result of the following conduct:

- a. On or about January 21, 2002, William J. Davis, then authorized by contract to solicit and sell annuity contracts on behalf of Respondent, accepted two annuity applications on Willard C. Hauptmeier for an exchange/replacement of two annuities Mr. Hauptmeier held with Indianapolis Life Insurance Company ("IL Annuity") (Policy #824093 and #839893).
- b. On or around January 28, 2002, Respondent sent documentation to IL Annuity advising IL Annuity that Respondent had received Mr. Hauptmeier's applications for the two aforementioned annuities. The documentation sent by Respondent to IL Annuity on January 28, 2002, did not include a ledger statement containing comparable data as specified by 210 NEB. ADMIN. R. & REGS. 19-008.02B.
- c. On or around August 21, 2006, Cynthia Williamson, Insurance Investigator for Petitioner, received a letter from Respondent regarding an investigation conducted by Petitioner. In said letter, Respondent states, "[p]lease find enclosed, however, documentation sent to IL Annuity on January 28, 2002, advising them that we has [sic] received transfer paperwork from Mr. Hauptmeier and requesting that IL Annuity honor Mr. Hauptmeier's request. In addition we had requested the Cost Basis information from IL Annuity in a separate letter of the same date. As such, IL Annuity had notice of Mr. Hauptmeier's intent to replace his IL Annuity contracts. Therefore it appears that though *a ledger was not provided*, IL Annuity was provided notice and the opportunity to try and conserve their annuity product." (Emphasis provided).

3. In addition to those matters referenced in paragraph 2 above, the Department and Respondent have had additional communications concerning Respondent's past, current and prospective practices in complying with the ledger requirements on replacement policies as provided in 210 NEB. ADMIN. R. & REGS. 19-008.02B. In addition to the specific policies referenced herein, the Department and the Respondent also have agreed to resolve any and all issues between the Department and Respondent as to violations of the ledger requirements upon which the Department has received complaints for the Respondent's replacement activity in the state of Nebraska up to and including the date of this Consent Order. Such resolution is set forth in the "Consent Order" paragraph below.

4. Respondent was informed of its right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving the right to a public hearing, Respondent also waives the right to confrontation of witnesses, production of evidence, and judicial review.

5. Respondent admits the allegations stated in Paragraph 2.

#### CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes a violation of 210 NEB. ADMIN. R. & REGS. 19-008.02B and is subject to disciplinary action pursuant to 210 NEB. ADMIN. R. & REGS. 19-010.04 and NEB. REV. STAT. § 44-1529.

#### CONSENT ORDER

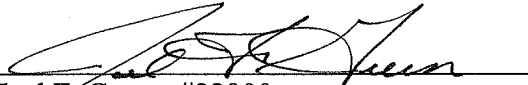
It is therefore ordered by the Director of Insurance and agreed by Respondent, Midland National Life Insurance Company, that Respondent shall pay an administrative fine in the amount of three hundred fifty dollars (\$350.00), due within 30 days after the Director of Insurance or his designee approves and signs this Consent Order. Respondent shall also provide, within 30 days after the Director of Insurance or his designee approves and signs this Consent Order, written documentation to the Director of Insurance, in a mutually agreed upon form, a description of the procedures and policies incorporated or to be incorporated by Respondent to ensure compliance with 210 NEB. ADMIN. R. & REGS. 19 (1997) as evidence of Respondent's good-faith intent to adhere to and institute procedures compliant with all applicable and relevant portions of 210 NEB. ADMIN. R. & REGS. 19 (1997).

The Department and Respondent further agree that, without specifically identifying individual policyholders, there may be other instances predating the date of this Consent Order in which Respondent failed to provide ledgers as required by 210 NEB. ADMIN. R. & REGS. 19-008.02B. Therefore, based upon Respondent's acknowledgment and consent regarding future

compliance with Nebraska statutes and regulations as set forth above, and upon Respondent's demonstration of good faith in attempting to comply with Nebraska statutes and regulations in the future, including Respondent's cooperation with this investigation, the Department waives any further rights, remedies or actions against Respondent based upon Respondent's failure to comply with Nebraska regulations concerning replacement of annuity policies as set forth in paragraph 3 above upon which the Department has received complaints prior to the date of this Consent Order.

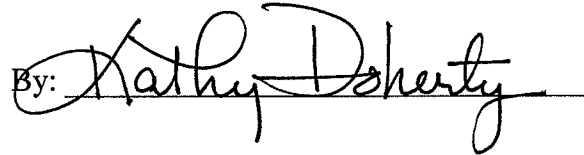
The Department of Insurance will continue to retain jurisdiction over this matter and shall prosecute any failure of the Respondent to comply with this Consent Order.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing his/her signature below.

  
Joel F. Green, #22900  
Attorney for Petitioner  
941 "O" Street, Suite 400  
Lincoln, NE 68508  
(402) 471-2201

12-19-2006  
Date

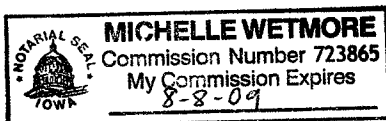
MIDLAND NATIONAL LIFE  
INSURANCE COMPANY, Respondent

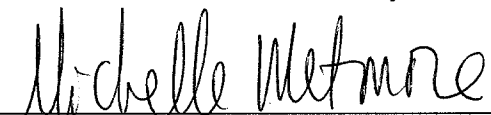
By: 

11-15-2006  
Date

State of Iowa )  
County of Polk ) ss.

On this 15 day of November, 2006, an authorized representative of Midland National Life Insurance Company personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his/her voluntary act and deed.




  
Notary Public

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Midland National Life Insurance Company, Cause No. C-1598.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

By:   
L. TIM WAGNER  
Director of Insurance

12/22/06  
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent's agent, Stephen P. Horvat, Jr., 525 West Van Buren, Chicago, IL 60607, by certified mail, return receipt requested on this 22<sup>nd</sup> day of December, 2006.

